

STATE OF ARIZONA OFFICE OF THE GOVERNOR

EXECUTIVE OFFICE

Douglas A. Ducey Governor

April 22, 2019

The Honorable Katie Hobbs Secretary of State 1700 W. Washington, 7th Floor Phoenix, AZ 85007

Dear Secretary Hobbs:

I am transmitting to you the following bills from the Fifty-fourth Legislature, 1st Regular Session, which I signed on April 22nd, 2019:

- H.B. 2318 texting while driving; prohibition; enforcement (Campbell)
- H.B. 2674 insurance; exceptions; guaranteed asset protection (Weninger)
- H.B. 2704 underground storage tanks; process (Toma)
- S.B. 1048 community colleges; admissions criteria (Carter)
- S.B. 1073 school district consolidations (S. Allen)
- S.B. 1159 fire districts; financial reports; alternatives (Borelli)
- S.B. 1250 protective orders; sexual assault (Steele)
- S.B. 1340 ABOR; university scholarships; report (Carter)
- S.B. 1398 miniature scooters; electric standup scooters (Pace)

Sincerely,

Douglas A. Ducey

Governor

State of Arizona

cc:

Senate Secretary

Chief Clerk of the House of Representatives

Arizona News Service

House Engrossed Senate Bill
FILED
KATIE HOBBS
SECRETARY OF STATE

State of Arizona Senate Fifty-fourth Legislature First Regular Session 2019

CHAPTER 117 SENATE BILL 1159

AN ACT

AMENDING SECTIONS 48-805.01 AND 48-807, ARIZONA REVISED STATUTES; RELATING TO FIRE DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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44 45 Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 48-805.01, Arizona Revised Statutes, is amended to read:

48-805.01. Separate legal entities; joint exercise of powers

- A. If public agencies identified in subsection B of this section form a separate legal entity pursuant to section 11-952, the entity has the powers common to the contracting powers specified in the agreement and may jointly exercise powers held in common by the contracting parties in a manner or according to the method provided in the agreement. Notwithstanding title 38, an officer or elected member of the governing body of a party to the agreement may also act in the capacity of a member of the governing body of the separate legal entity. In its own name and subject to the agreement, the separate legal entity, subject to existing applicable law, may:
- 1. Make and enter into contracts, including contracts, leases or other transactions with one or more of the parties to the agreement forming the separate legal entity.
 - 2. Employ agents and employees.
 - 3. Acquire, hold or dispose of property.
- 4. Acquire, construct, manage, maintain and operate buildings, works, infrastructure, apparatus, equipment and improvements.
 - 5. Incur debts, liabilities and obligations.
 - 6. Sue and be sued.
- 7. Require all current and prospective employees and volunteers to submit a full set of fingerprints to the joint powers authority for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.
- B. Cities, towns, counties and fire districts established pursuant to this title may form a separate legal entity pursuant to section 11-952, for the purposes of jointly exercising powers held in common by the contracting parties. Common powers of the contracting parties when otherwise authorized pursuant to state law may include fire protection, the preservation of life, providing emergency medical services, carrying out its other powers and duties, including providing ambulance transportation services when authorized to do so pursuant to title 36, Any separate legal entity formed pursuant to chapter 21.1, article 2. section shall include a fire district. The intergovernmental agreement must state the intent to form a separate legal entity pursuant to this subsection. The governing body of a separate legal entity formed pursuant to this subsection shall be composed of officials elected to one or more of the governing bodies of the political subdivisions that are parties to the agreement, or their designees. A separate legal entity identified pursuant to this subsection:

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- 1. Is a political subdivision of this state having:
- (a) The governmental and proprietary powers that are common to the contracting parties specified in the agreement and those powers provided for in section 11-952 and this section.
- (b) The rights and immunities of the parties that are granted by the constitution and statutes of this state, including immunity of its property from taxation.
- 2. May separately contract for an undertaking with any two or more of the parties or other public agencies or other entities. Limitations on the exercise of common powers shall be applicable only to the parties to the agreement participating in the undertaking.
- 3. May establish any governance and board structure necessary to carry out its powers and duties subject to the requirements of section 11-952 and this section.
- 4. If specified in the agreement, is the authority that has jurisdiction for the purpose of fire code administration and enforcement for the parties to the agreement.
- 5. Shall be provided a .gov identifier for the website used to carry out its powers and duties by the applicable governmental issuer.
- 6. In addition to other powers provided for in the agreement by a vote of its governing body, may incur obligations payable from the entity's revenues, to pay the costs and expenses of acquiring or constructing any structures, facilities or equipment necessary to effectuate the purposes of the agreement subject to the following conditions and requirements:
- (a) The parties to the agreement, with the approval of each participating entity's voters, may issue general obligation bonds for the purpose of funding the costs and expenses of acquiring or constructing any structures, facilities or equipment necessary to effectuate the purposes of the agreement. Each of the participating party's general obligation bonding authority is limited to that of each party's enabling legislation.
- (b) The general obligation bonds are payable from the taxes or assessments paid to, or to be levied or collected by, the entity or the political subdivisions that are parties to the agreement that forms the entity.
- (c) The general obligation bonds are limited to an amount as authorized by the qualified electors that are parties to the agreement and are subject to the requirements of sections 35-431 and 48-806.
- 7. MAY USE THE TITLE FIRE AUTHORITY, FIRE AND MEDICAL AUTHORITY, FIRE AND EMERGENCY MEDICAL SERVICES AUTHORITY, FIRE AND AMBULANCE AUTHORITY OR AMBULANCE AUTHORITY TO IDENTIFY THE SEPARATE LEGAL ENTITY FORMED PURSUANT TO THIS SECTION. THE TITLES PRESCRIBED IN THIS PARAGRAPH MAY NOT BE USED IN THE NAME, TITLE OR DESIGNATION OF OTHER STATE OR LOCAL AGENCIES, BUSINESS ENTITIES OR NONPROFIT ORGANIZATIONS.

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- C. For the purposes of subsection B of this section, "undertaking":
- 1. Means one or more of the following:
- (a) Purchasing, constructing, leasing or acquiring any real or personal property, works, apparatus, equipment or facilities that the political subdivisions that formed the entity are authorized by law to purchase, construct, lease or otherwise acquire.
- (b) Improving, reconstructing, extending or adding to any real or personal property, works, apparatus, equipment or facilities owned or operated by the entity.
- (c) Any program of development involving real or personal property, works, apparatus, equipment or facilities that the entity is authorized by law to purchase, construct, lease or otherwise acquire or the improvement, reconstruction, extension or addition to the program.
- (d) Providing fire protection, for the preservation of life, for providing emergency medical services and for carrying out its other powers and duties, including providing ambulance transportation services when authorized to do so pursuant to title 36, chapter 21.1, article 2 and purchasing, constructing, leasing or acquiring, or the extension or addition of, works, apparatus, equipment or facilities designed to serve areas or territories already being served by any of the parties to the agreement.
- 2. Does not include the acquisition by eminent domain of existing works or facilities of a political subdivision.
- D. The exercise of joint powers does not create any expansion of a certificate of necessity issued pursuant to title 36, chapter 21.1, article 2 or the operating rights as defined by the certificate of necessity held by one or more of the entities entering into a joint powers authority. The operating rights remain the same as those rights granted to the certificate of necessity holder at the date of the establishment of the joint powers authority unless modified pursuant to title 36, chapter 21.1, article 2.
- E. A fire district board that participates in an agreement to form a separate legal entity pursuant to this section:
- 1. Is not subject to the public meeting requirements provided in section 48-805.
- 2. Shall hold a public meeting at least once every ninety days or as necessary to carry out its powers and duties.
- 3. If a cumulative financial report review occurs at least once every ninety days, is considered compliant with section 48-807, subsection P, EXCEPT THAT ADVERSE FINANCIAL IMPACT REPORTING SHALL BE REPORTED AS PROVIDED BY SECTION 48-807, SUBSECTION P.

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F. A municipality that participates in an agreement to form a separate legal entity pursuant to this section is not subject to a limit on the duration of the agreement.

Sec. 2. Section 48-807, Arizona Revised Statutes, is amended to read:

48-807. <u>County fire district assistance tax; annual budget;</u> <u>override; monthly financial reports</u>

- A. The board of supervisors of a county shall levy, at the time of levying other property taxes, a county fire district assistance tax on the taxable property in the county of not more than ten cents \$.10 per one hundred dollars \$100 of assessed valuation. The tax levy provided for in this subsection shall be a levy of secondary property taxes and shall not be subject to title 42, chapter 17, article 2. The county treasurer shall pay to each fire district, including a fire district formed pursuant to section 48-851, in the county from the proceeds of the tax an amount equal to twenty percent of the property tax levy adopted by the district for the fiscal year in which the tax will be levied, except that:
- 1. The amount of assistance from the county to a fire district shall be reduced as follows:
- (a) Through the fiscal year that ends June 30, 2012, by the dollar amount that the fire district receives from the fire district assistance tax that exceeds three hundred thousand dollars \$300,000 from and after June 30 of each fiscal year.
- (b) Beginning with the fiscal year that starts July 1, 2012, by the dollar amount that the fire district receives from the fire district assistance tax that exceeds four hundred thousand dollars \$400,000 from and after June 30 of each fiscal year, without regard to whether the district is located in more than one county.
- (c) Except as provided in paragraph 2 of this subsection, if the total amount to be paid to all districts in the county under this paragraph exceeds the amount to be raised by the levy of ten cents \$.10 per one hundred dollars \$100 assessed valuation, then the county treasurer shall pay an amount less than twenty percent of the property tax levy of each district. The amount to be paid by the county treasurer to each district shall be determined by multiplying the proceeds of the county fire district assistance tax against the proportion that twenty percent of the property tax levy of each district bears to the total of twenty percent of the property tax levies of all fire districts in the county.
- 2. For fiscal years beginning from and after July 1, 1992, the amount of assistance from the county to a fire district shall not be less than the assistance provided from and after June 30, 1991 through June 30, 1992, if, for the fiscal year in which the tax will be levied, the district levies a tax, in addition to any tax levied under section 48-806, of three dollars \$3 per one hundred dollars \$100 of assessed valuation and the assessed valuation is at least ninety percent of the assessed

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valuation for the 1991 tax year. This paragraph does not apply to fire districts subject to paragraph 1, subdivision (a) or (b) of this subsection.

- B. For the purpose of subsection A of this section, the property tax levy of the fire district shall include in lieu contributions pursuant to chapter 1, article 8 of this title but shall not include property tax levies to be applied to the payment of principal and interest on bonds issued pursuant to section 48-806.
- C. Beginning with the fiscal year that starts July 1, 2016, a consolidated district shall not receive more than the maximum allowable amount in fire district assistance tax monies as prescribed in subsection D of this section, without regard to whether the consolidated district is located in more than one county.
- D. Beginning with the fiscal year that starts July 1, 2016, for any two or more fire districts that merge or consolidate to form a consolidated district on or after July 1, 2014, the consolidated district may continue to receive monies in an amount not to exceed the sum of the average of the amount of fire district assistance tax monies received by each of the consolidating or merging districts in the five fiscal years immediately preceding the merger or consolidation as prescribed in subsection A of this section, without regard to whether the consolidated district is located in more than one county.
- E. For a consolidated district that is formed in any fiscal year beginning July 1, 2014 or later and that is receiving fire district assistance tax monies that are reduced as prescribed in subsection A, paragraph 1, subdivision (c) of this section, if the total amount of fire district assistance tax monies that would be paid to all districts in the county pursuant to subsection A of this section is less than the amount of monies that would be raised by the levy of ten cents \$.10 per one hundred dollars \$100 assessed valuation, the county treasurer shall pay the consolidated district the amount of fire district assistance tax monies prescribed by subsection A of this section that would have been paid to the districts at the time the districts merged or consolidated.
- F. The board, based on the budget submitted by the district, shall levy, in addition to any tax levied as provided in section 48-806, a tax not to exceed three dollars twenty-five cents \$3.25 per one hundred dollars \$100 of assessed valuation, or the amount of the levy in the preceding tax year multiplied by 1.08, whichever levy is less, and minus any amounts required to reduce the levy pursuant to subsection I of this section, against all property situated within the district boundaries and appearing on the last assessment roll. The levy shall be made and the taxes collected in the manner, at the time and by the officers provided by law for the collection of general county taxes.

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- G. The qualified electors of the district, voting in an election as prescribed by subsection H of this section, may authorize the board to levy a tax exceeding the limits prescribed by subsection F of this section under one, but not both, of the following options:
- 1. The electors may authorize a permanent override allowing annual levies without reference to the levy in the preceding tax year, but remaining subject to the tax rate limit of three dollars twenty-five cents \$3.25 per one hundred dollars \$100 of assessed valuation. An election for the purposes of this paragraph must be held at a regularly scheduled general election held on the first Tuesday following the first Monday in November as prescribed by section 16-204, subsection F.
- 2. If the net assessed valuation of all property in the district declines by a combined total of twenty percent or more over two consecutive valuation years, the electors voting at the next regularly scheduled general election held on the first Tuesday following the first Monday in November as prescribed by section 16-204, subsection F may authorize an override for five consecutive tax years allowing annual levies that are exempt from the tax rate limit of three dollars twenty-five cents \$3.25, but subject to an annual levy limit of the amount of the levy in the preceding tax year multiplied by 1.05. After the fifth tax year, the district is again subject to the limits prescribed by subsection F of this section, computed by multiplying the levy beginning in the year preceding the override by 1.08 for each year through the current tax year.
- H. The call for an override election held for the purposes of subsection G of this section must state:
- 1. The purpose for requesting additional secondary property tax revenue for the district.
 - 2. If the voters approve the levy:
- (a) The maximum dollar amount of secondary property tax that may be collected in the first year compared to the existing maximum secondary property tax levy prescribed in subsection F of this section.
- (b) The estimated secondary property tax rate to fund the proposed levy under subdivision (a) of this paragraph in the first tax year compared to the secondary property tax rate levied in the current year.
- I. If the district annexes additional territory, the limit under subsection F of this section shall be adjusted by applying the district's tax rate to the assessed valuation of the annexed property in the preceding tax year. If districts are merged or consolidated under this chapter, the limitation under this subsection in the first year after the districts are merged or consolidated is the total of the levies of the merged or consolidated districts in the preceding tax year multiplied by 1.08 or the amount of the levies allowed by the maximum rate prescribed by subsection F of this section, whichever is less.

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- J. The district shall maintain any property tax revenues collected in excess of the sum of the amounts of taxes collectible pursuant to section 42-17054 and the allowable levy determined under subsection F of this section in a separate fund and used to reduce the property tax levy in the following tax year.
- K. The levy limit under this section is considered to be increased each year to the maximum limit permissible under subsection ${\sf F}$ of this section regardless of whether the district actually levies taxes up to the maximum permissible amount in that year.
- L. The county treasurer shall keep the money received from taxes levied pursuant to subsection F of this section in a separate fund known as the "fire district general fund" of the district for which collected. Any surplus remaining in the fire district general fund at the end of the fiscal year shall be credited to the fire district general fund of the district for which it was collected for the succeeding fiscal year and after subtraction of accounts payable and encumbrances, shall be used to reduce the property tax levy in the following tax year.
- M. A fire district may maintain separate accounts with a financial institution that is authorized to do business in this state for the purpose of operating a payroll account or for holding special revenues or ambulance revenues, or both, as necessary to fulfill the district's fiduciary responsibilities.
- N. A fire district, through the county treasurer, shall establish the relevant governmental funds necessary for the proper management and fiscal accountability of district monies from property taxes, grants, contributions and donations, as defined by the government accounting standards board. Unless the monies received are legally restricted by contract, agreement or law, those monies may be transferred between fund accounts according to the original or amended budget of the fire district.
- O. A fire district shall reconcile all balance sheet accounts for accounts for each calendar month of the fiscal year within thirty days after the end of that calendar month. The fire district board shall review the reconciled balance sheet accounts monthly, except that for a fire district that is governed by a three-member board, the board may review the reconciled balance sheet accounts every two months.
- P. A fire district shall produce monthly financial reports to include a register of checks, substitute checks, warrants and deposits, a record of electronic funds transfers, a statement of financial activities and a statement of net assets for each calendar month. A fire district shall produce a cash flow projection report for each fiscal year. The cash flow projection report shall be updated monthly with the actual revenues and expenditures from the preceding month. Each month, the fire district board shall review the financial reports, the updated cash flow projections report and all month-end fund statements and reports of the preceding month to include those reports provided by the county treasurer

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 and each of the financial institutions in which the district maintains an account, except that for a fire district that is governed by a three-member board, the board may review the reports and statements prescribed by this subsection every two months. Any financial report or cash flow projection report that would indicate that the district is likely to violate section 48-805.02, subsection D, paragraph 1 or that would indicate an adverse impact on the ongoing operations or liquidity of the district shall be reported by the fire district board chairman in writing and delivered by certified mail to the county treasurer and the county board of supervisors within ten days after the discovery.

- Q. WITHIN SIXTY DAYS AFTER SUBMITTAL OF A WRITTEN REPORT PURSUANT TO SUBSECTION P OF THIS SECTION BY THE FIRE DISTRICT BOARD CHAIRMAN TO THE COUNTY TREASURER AND THE COUNTY BOARD OF SUPERVISORS THAT STATES THE FIRE DISTRICT IS LIKELY TO VIOLATE SECTION 48-805.02, SUBSECTION D, PARAGRAPH 1 OR THAT INDICATES AN ADVERSE IMPACT ON THE ONGOING OPERATIONS OR LIQUIDITY OF THE FIRE DISTRICT, THE DISTRICT SHALL COMPLETE A STUDY OF MERGER, CONSOLIDATION OR JOINT OPERATING ALTERNATIVES. THE FIRE DISTRICT SHALL HOLD A SPECIAL PUBLIC MEETING AS PRESCRIBED IN SECTION 48-805.02, SUBSECTION D TO PRESENT THE FINDINGS OF THE STUDY. WITHIN FIVE DAYS AFTER THE SPECIAL PUBLIC MEETING, THE FIRE DISTRICT BOARD CHAIRMAN SHALL SUBMIT THE FINDINGS OF THE STUDY TO THE COUNTY TREASURER AND COUNTY BOARD OF SUPERVISORS.
- Q. R. Notwithstanding section 11-605, a fire district may register or record warrants, substitute checks or electronic funds transfers only if separate accounts are maintained by the county treasurer for each governmental fund of a fire district. Warrants, substitute checks or electronic funds transfers may be registered or recorded only on the maintenance and operation account, the unrestricted capital outlay account and the special revenue account, and only if the total cash balance of all three accounts is insufficient to pay the warrants, substitute checks or electronic funds transfers and after any revolving line of credit has been expended as prescribed in section 11-635.
- R. S. When a fire district has adopted a budget and the board of supervisors has levied a fire district tax as provided in subsection F of this section and the district has insufficient money in the district's general fund with the county treasurer to operate the district, the chairman of the board, on or after August 1 of each year, may draw warrants, substitute checks or electronic funds transfers for the purposes prescribed in section 48-805 on the county treasurer, payable on November 1 of that year or on April 1 of the succeeding year. The aggregate amounts of the warrants, substitute checks or electronic funds transfers may not exceed ninety percent of the taxes levied by the county for the district's current fiscal year. If the treasurer cannot pay a warrant, substitute check or electronic funds transfer for lack of funds in the fire district general fund, the warrant or substitute check shall be

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- 1 endorsed and registered, or the electronic funds transfer shall be
- 2 recorded, and the warrant, substitute check or electronic funds transfer
- 3 shall bear interest and be redeemed as provided by law for county
- 4 warrants, substitute checks or electronic funds transfers, except that the
- 5 warrants, substitute checks or electronic funds transfers are payable only
- 6 from the fire district general fund.

APPROVED BY THE GOVERNOR APRIL 22, 2019.

FILED IN THE QFFICE OF THE SECRETARY OF STATE APRIL 22, 2019.

Passed the House, 20	Passed the Senate <u>Felway 14</u> , 2019,
by the following vote: Ayes,	by the following vote: Ayes,
Nays, Not Voting	Nays, Not Voting
Speaker of the House	Kace Hann President of the Senate
Jin Dale	Susan acers
Chief Clerk of the House	Secretary of the Senate
OFFICE O This Bill was receiv	ARTMENT OF ARIZONA DF GOVERNOR red by the Governor this
Ammuoud this	Secretary to the Governor
Approved this day of	
atM.	
Governor of Arizona	EXECUTIVE DEPARTMENT OF ARIZONA OFFICE OF SECRETARY OF STATE
	This Bill was received by the Secretary of State
S.B. 1159	thisday of, 20,
	at o'clock M.

Secretary of State

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate april 16, 2019	
by the following vote:Ayes,	
Nays,Not Voting	
Karen Farr	
President of the Senate	
Secretary of the Senate	
EXECUTIVE DEPARTMENT OF ARIZONA OFFICE OF GOVERNOR	
This Bill received by the Governor this	
16th day of April, 20 19	
at 2:06 o'clock P M.	
RynShil	
Secretary to the Governor	
Approved this 22w day of	
April 2014	
at 0:58 o'clock A M.	
Jonal O. Samuel	
Governor of Arizona	
EXECUTIVE DEPARTMENT OF ARIZONA OFFICE OF SECRETARY OF STATE	
This Bill received by the Secretary of State	
this <u>22</u> day of <u>April</u> , 20 19	
S.B. 1159 at 3:28 o'clock P. M.	
Secretary of State	